

Economic Impact Statement

LSA Document #16-499

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

On June 5, 2014, the United States Department of Agriculture - APHIS (USDA-APHIS) issued a Federal Order that required mandatory reporting to USDA or state animal health officials of confirmed occurrences of porcine epidemic diarrhea (PEDv) and porcine deltacoronavirus (PDCoV). The novel outbreak of the PEDv virus has presented a tremendous challenge to the U.S. pork industry. Infections with these coronaviruses can cause significant mortality, particularly in young piglets.¹ The Federal Order also required the development of herd monitoring and management plans for farms with a positive PEDv or PDCoV diagnosis.

Indiana has been working closely with the state's swine producers and veterinarians since the initial U.S. outbreak of PEDv in May of 2013, which occurred in southern Indiana. Specifically, the BOAH has brought stakeholders together to share information on positive farms, discuss biosecurity practices and diagnostic capabilities, and assist with the development of an epidemiological strategy to determine the source or sources of transmission of the virus.

In addition, in late 2014 the BOAH adopted a final rule in order to coordinate state rules with federal action. LSA #14-236(F). This rule requires a herd owner, veterinarian, caretaker, custodian, or laboratory personnel that receives information of a presumptive positive case, confirmed positive case, or negative case of PEDv or PDCoV in a herd located in Indiana to report that information to the state veterinarian within two (2) business days. It also requires an owner of a confirmed positive herd to follow and provide the state veterinarian with a copy of a herd management plan developed through a relationship with a herd veterinarian. The plan is required to be submitted no later than forty-five (45) days after the date the state veterinarian receives notice of a positive case under the rule.

On January 4, 2016, the USDA issued an amended Federal Order governing swine enteric coronavirus disease (SECD).² This Federal Order retains the mandatory disease reporting requirement for SECD but removes the herd management plan requirement. The reporting requirement was retained because, while there are now significantly fewer detections of SECD, it remains a concern for the industry. However, the USDA made a determination that herd management plans were not providing information deemed useful to the program and remuneration to accredited veterinarians for development of herd plans was not widely used. The USDA has stated that its focus will be shifted to extending the availability of diagnostic testing that facilitates disease reporting.

In order to align the BOAH rule with this recent federal action, the BOAH is proposing to retain the state SECD reporting requirement. However, the proposed rule would repeal the state's requirement for development and submission of a herd management plan no later than forty-five (45) days after the state veterinarian receives notice of a positive case.

1. Description of Affected Industry

According to the United States Department of Agriculture – National Agriculture Statistics Service (USDA-NASS) 2012 Census of Agriculture, Indiana has 2,757 pork producers.³ For purposes of the Census, a "farm" is defined as any place from which \$1,000 or more of agricultural products were produced and sold, or normally would have been sold during the census year. BOAH has worked to involve these regulated entities in the development of the rule. Prior to the first reading of the rule at the board's quarterly meeting in October, BOAH included information about the proposed changes to the SECD rule on its webpage. BOAH consults with its Swine Health Advisory Committee, which is comprised of producers and veterinary practitioners from the pork production industry, regarding any changes to rules that will have an impact on this agricultural sector. BOAH also sends out emails to interested parties that have requested to stay informed on matters being considered by the board. The affected industry includes small businesses under the definition at [IC 4-22-2.1-4](#).

2. Estimated Annual Reporting, Record Keeping, and Other Administrative Costs

The proposed rule does not increase annual reporting, record keeping, or other administrative costs for regulated entities. Because the BOAH is seeking to repeal a requirement that a swine owner provide a herd management plan, it is actually reducing administrative costs by eliminating a rule that requires a document to be prepared and submitted to the state.

3. Estimated Total Annual Economic Impact on Small Businesses

It is estimated that in 2011, Indiana's livestock related industries contributed \$11.6 billion in total economic output to the Hoosier economy and also supported 53,340 jobs.⁴ The reporting component of the SECD rule benefits this industry by ensuring that BOAH is promptly informed of positive diagnoses so, if necessary, appropriate containment actions may be implemented. The current SECD rule does not mandate testing of swine.

Disease testing for SECD is voluntary as a result of a consultation between a veterinarian and his or her client. However, if a positive test result is received, it must be reported. BOAH estimates the cost to conduct a PEDv test to be approximately \$40.

The proposed rule is removing the requirement that, if the test is positive, the producer is required to submit a herd management plan. When this rule was implemented, it fully reflected what was being mandated by USDA in the 2014 Federal Order. It required that the plan mandated by USDA also be submitted to the state veterinarian. The USDA initially made federal funds available to producers to cover some of the costs associated with development of the plan. However, it is critical to remove this requirement because the 2016 Federal Order indicates that these funds will likely be transitioned to other purposes.

The proposed rule benefits the regulated community by ensuring that a producer does not have to incur the costs of compensating its veterinarian to develop a herd health plan that is no longer federally required. The cost to a producer of developing a herd management plan is highly variable depending on factors such as the size of the herd and the rate charged by their private veterinarian. As stated above, the purpose of the proposed rule is to remove the SECD herd management plan requirement in order to align the state rule with the USDA Federal Order. If BOAH does not proceed with the proposed rule, Indiana's pork producers would be subject to an unnecessarily burdensome state requirement that is no longer required by federal law.

4. Justification of Requirements

a. Compliance with Federal and State Law

It is a statutory duty of the BOAH to develop programs and work cooperatively with appropriate agencies to prevent, detect, and control diseases. [IC 15-17-3-13](#). State law also requires an owner, veterinarian, or custodian of an animal that knows or has reason to suspect that a dangerous, contagious, or infectious disease exists in an animal to report the existence of disease to the state veterinarian within forty-eight (48) hours after discovering or having reason to suspect the disease exists. [IC 15-17-10-1](#). It is the position of the BOAH that SECD remains high a consequence disease the nation is currently working to control and therefore should remain as a reportable disease. However, the BOAH agrees with the USDA's position that resources formerly devoted to developing a herd management plan can be more effectively used by focusing on diagnostic testing and transmission research in order to mitigate the devastating effects of this virus.

b. Justification of Requirements not Mandated by Federal or State Law

The proposed rule does not impose a requirement or cost beyond what is expressly required by federal or state law. BOAH estimates that the total estimated impact (cost) will be less than \$500,000.

5. Regulatory Flexibility Analysis

Because the current SECD disease reporting requirement mirrors what is still required in the 2016 Federal Order, BOAH did not consider alternatives to retention of this requirement. The private sector relies upon Indiana to have reporting rules in place that are consistent with federal law in order to move their products throughout the U.S. and internationally. BOAH did not consider an alternative to the repeal of the herd management plan development and submission requirement because the agency agrees with USDA's position that state and federal resources can be more effectively used on efforts such as improved diagnostic testing and epidemiologic research. This is a market-oriented approach because it supports the industry by providing critical information and analysis to assist them in making individualized production decisions for their farm.

¹ USDA-APHIS Federal Order, *Reporting, Herd Monitoring and Management of Novel Swine Enteric Coronavirus Diseases*, June 5, 2014.

² USDA-APHIS Federal Order, *Reporting, Herd Monitoring and Management of Novel Swine Enteric Coronavirus Diseases*, January 4, 2016.

³ United States Department of Agriculture - *2012 Census of Agriculture*
http://www.agcensus.usda.gov/Publications/2012/#full_report

⁴ Indiana Business Research Center, Kelley School of Business, Indiana University, *Agriculture's Bounty, The Economic Contribution of Agriculture*, May 2013.